

REMARKS

The specification has been amended to correct the figure at page 2, line 1. Support for this amendment is found at page 1, lines 3-5 of the specification. No new matter has been added.

Claims 20-37 are pending and at issue.

Objection to the Specification

The specification has been objected to for containing the wrong chemical structure of escitalopram. The specification has been amended to correct this error.

Obviousness Rejection over the '590 Patent, the '249 Application and Schaller

Claims 20-37 have been rejected under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 4,943,590 ("the '590 Patent") in view of U.S. Patent Application Publication No. 2002/0103249 ("the '249 Application") and Schaller et. al., *J. Neuropsychiatry and Clinical Neurosciences*, 11:4, Fall 1999 ("Schaller").

Applicants respectfully traverse this rejection and request reconsideration.

Submitted herewith is a Declaration pursuant to 35 U.S.C. §103(c) (Exhibit A). The declaration states that at the time the invention claimed in the present application was made, the present invention and the '249 Application were owned by H. Lundbeck A/S, or subject to an obligation of assignment to the same. See paragraph 4, Exhibit A. Pursuant to 35 U.S.C. §103(c), the '249 Application is not available as a prior art reference under 35 U.S.C. §103(a) to the present application.

Furthermore, neither the '590 Patent nor Schaller disclose or suggest the use of escitalopram to treat patients suffering from attention deficit hyperactivity disorder (ADHD). As acknowledged by the Examiner, the '590 Patent does not refer to ADHD (Office Action, p. 3).

Schaller discusses a proposed treatment for patients suffering from comorbid ADHD, major depression, and anxiety, in which each indication is separately treated:

[W]e are proposing patients with such comorbidities should have their [major depression] treated first, their anxiety disorder next, and finally be offered a non-combination, low-potency stimulant for ADHD.

(Schaller, middle column).

While Schaller states that patients with ADHD have an increased risk for developing depression, it does not follow that a drug known to treat depression would be effective for treating ADHD. In fact, Schaller reports that a patient treated with the anti-depressant sertraline still exhibited symptoms of ADHD. As a result, the patient was also treated with a stimulant, methylphenidate. Schaller concludes that patients suffering from ADHD and anxiety should be treated with a low-potency stimulant:

This case suggests that one should treat ADHD with comorbid anxiety with a low-potency non-combination stimulant, to prevent sensitivity to stimulants.

(*Id.*).

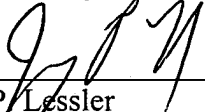
Therefore, Schaller does not disclose or suggest that escitalopram is effective for treating ADHD.

For the foregoing reasons, the '590 Patent, the '249 Application and Schaller fail to render claims 20-37 obvious. Accordingly, applicants respectfully request withdrawal of this rejection.

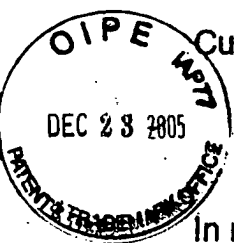
In view of the above amendment and remarks, applicants believe the pending application is in condition for allowance.

Dated: December 23, 2005

Respectfully submitted,

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Customer No.: 07278

Docket No.: 05432/100M919-US5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sanchez, et al.

Serial No.: 10/644,576

Examiner: Chong, Yong Soo

Confirmation No.: 5194

Filed: August 20, 2003

Art Unit: 1617

For: **THE USE OF ENANTIOMERIC PURE ESCITALOPRAM**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION PURSUANT TO 35 U.S.C. §103(c)

Sir:

I, JENS TOFTELUND MADSEN, declare that:

1. I am a citizen of DENMARK and am over twenty-one years of age.

2. I am PATENT COUNSEL of Lundbeck A/S, located at Ottilavej 9, Copenhagen-Valby, Denmark, and have held that position since Oct 1, 2000.

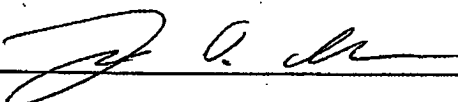
3. I have reviewed U.S. Patent Application No. 10/644,576, including the pending claims therein, and U.S. Patent Application Publication No. 2002/0103249 A1.

4. U.S. Patent Application No. 10/644,576 and U.S. Patent Application Publication No. 2002/0103249 A1 were, at the time the invention claimed in U.S. Patent

Application No. 10/644,576 was made, owned by H. Lundbeck A/S or subject to an obligation of assignment to H. Lundbeck A/S.

5. I hereby declare that all statements of my own knowledge are true and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that said willful false statements may jeopardize the validity of the application or any patent issued therein.

Dated: December 20, 2005

Signed: 

Print Name: JENS TOFTELUND MADSEN

Title: PATENT COUNSEL

Company: H. Lundbeck A/S